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1	MARY ANN SMITH		
2	Deputy Commissioner SEAN M. ROONEY Assistant Chief Counsel UCHE L. ENENWALI (State Bar No. 235832) Senior Counsel Department of Financial Protection and Innovation 320 West 4 th Street, Suite 750 Los Angeles, California 90013 Telephone: (213) 503-4203 Facsimile: (213) 576-7181		
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7	Attorneys for Complainant		
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9	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION		
10	OF THE STATE OF CALIFORNIA		
11	In the Matter of:) CDDTL LICENSE NO. 100-4091	
12	THE COMMISSIONER OF FINANCIAL))	
13	PROTECTION AND INNOVATION,	ACCUSATION	
14	Complainant, v.))	
15))	
16	PETONIA R. BRECKE DBA CALIFORNIA PAYDAY ADVANCE,))	
17	Respondent.))	
18) -	
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20	Complainant, the Commissioner of Financial Protection and Innovation (Commissioner) is		
21	informed and believes, and based upon such information and belief, alleges and charges Respondent		
22	as follows:		
23	I.		
24	<u>Introduction</u>		
25	1. The Commissioner has jurisdiction over the licensing and regulation of persons and		
26	entities engaged in originating deferred deposit transactions under the California Deferred Deposit		
27	Transaction Law (CDDTL) (Fin. Code 23000 et. seq).		
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	1.00	1 ICATION	
	ACCUSATION		

- 2. Petonia R. Brecke, dba California Payday Advance (CPA) is licensed as a California deferred deposit transaction originator pursuant to the CDDTL with the license number 100-4091. CPA's principal place of business is located at 702 W. Colton Avenue, Suite G, Redlands, California 92374.

 A deferred deposit transaction is a written transaction whereby one person gives
- 3. A deferred deposit transaction is a written transaction whereby one person gives funds to another person upon receipt of a personal check along with an agreement that the personal check shall not be deposited until a later date. These transactions are also referred to as "payday advances" or "payday loans."

II.

Failure to Maintain Books and Records or Respond to the Commissioner's Demand

- 4. In accordance with Financial Code section 23007, all licensees under the CDDTL are required to file financial statements that indicate a net worth of at least twenty-five thousand dollars (\$25,000). Further, pursuant to California Code of Regulations, title 10, section 2025(b), all licensees are required to maintain books, accounts and records demonstrating minimum net worth requirements in compliance with Financial Code section 23007.
- 5. Financial Code section 23048(b) states that "The Commissioner may require the production for examination in this state of all books, records, and supporting data used by the licensee in the preparation of reports to the commissioner. The books, records, and supporting data shall be made available for examination by the commissioner in this state within 10 days after a written demand."
- 6. On June 29, 2020, the Commissioner's Examiner (Examiner) mailed a pre-examination notification letter to CPA notifying CPA of the Commissioner's intention to conduct a regulatory examination of its books and records. The Commissioner's June 29, 2020 letter demanded that CPA produce pertinent preliminary documents within 10 days, including CPA's last four most recent quarterly balance sheets. CPA did not provide the requested information.
- 7. On July 20, 2020, the Commissioner commenced a regulatory examination of CPA's books and records. During the regulatory examination, the Examiner inquired about status of the information the Commissioner requested in his pre-examination notification letter of June 29, 2020.

- 8. CPA provided some of the preliminary information requested but failed to produce its last four most recent financial statements. As a result, the Examiner was unable to determine during the examination whether CPA was in compliance with the net worth requirements prescribed under Financial Code section 23007 and Cal. Code Regs., tit. 10, § 2025 (b).
- 9. On November 5, 2020, the Examiner demanded that CPA provide its quarterly balance sheets for the period June 30, 2019 through September 30, 2020 to demonstrate compliance with the net worth requirements. CPA did not respond to the Examiner's request. The Examiner sent a follow-up email to CPA requesting that CPA provide no later than December 30, 2020, its quarterly balance sheets for the period June 30, 2019 through September 30, 2020.
- 10. CPA failed to respond to the Examiner's demands. On January 5, 2021, the Examiner tried to contact CPA over the telephone on at least two occasions, but no one answered the telephone. The Examiner left messages on CPA's voicemail however CPA did not return the Examiner's telephone calls.
- 11. On March 8, 2021, the Examiner sent a demand letter by certified mail to CPA's business location and residence requesting that CPA provide a response within 10 days. To date, the Examiner has not received a response to his letters, instead, all demand letters mailed to CPA were returned as undeliverable.

III.

Failure to File Annual Report

- 12. In accordance with Financial Code section 23026, all CDDTL licensees must file an annual report with the Commissioner by March 15 of each year (Annual Report).
- 13. The regulatory examination further showed that CPA failed to submit its Annual Report that was due on March 15, 2021. The Examiner made several attempts to contact CPA by telephone and email from the period December 2020 through March 2021, regarding its failure to file its Annual Report but was unsuccessful in contacting CPA. To date, CPA has not filed its Annual Report.

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IV.

Revocation Statute

14. Financial Code section 23052 provides in pertinent part:

> The commissioner may suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

- (a) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.
- (b) The licensee has violated any provision of this division or any rule or regulation made by the Commissioner under and within the authority of this division.
- (c) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.
- 15. By reason of the foregoing, CPA has violated provisions of the Financial Code by (i) failing to maintain books and records and/or file financial statements that demonstrate a net worth of at least twenty-five thousand dollars (\$25,000) in violation of Financial Code section 23007 and California Code of Regulations, title 10, section 2025(b); (ii) failing to file its annual report for the year ended 2020 in violation of Financial Code section 23026; and (iii) failing to produce books and records within 10 days after a written demand by the Commissioner in violation of Financial Code section 23048(b).

V.

Conclusion

CPA has failed to maintain books and records or file financial statements that indicate a net worth of at least twenty-five thousand dollars (\$25,000). Further, CPA failed to file its annual report for the year ended 2020 and to comply with the demand of the Commissioner.

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Prayer WHEREFORE, Complainant, the Commissioner of Financial Protection and Innovation prays that the deferred deposit transaction license number 100-4091 of Petonia R. Brecke, DBA California Payday Advance, be revoked pursuant to Financial Code section 23052. Dated: July 13, 2021 CHRISTOPHER S. SHULTZ Los Angeles, California Acting Commissioner of Financial Protection and Innovation By_ UCHE L. ENENWALI Senior Counsel **Enforcement Division ACCUSATION**

VI.